Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of Prescribing the Authorized Unitary Rate of Return for Interstate Services of Local Exchange Carriers	**)** **)** **)** **)**	**CC Docket No. 98-166**

REPLY COMMENTS OF CINCINNATI BELL TELEPHONE COMPANY

I. Introduction

Cincinnati Bell Telephone Company ("CBT"), a mid-size local exchange carrier ("LEC") serving fewer than 2% of the nations access lines and subject to price cap regulation, hereby submits the following separate reply comments in this proceeding. In addition, by virtue of its membership in both the United States Telephone Association ("USTA") and the Independent Telephone and Telecommunications Alliance ("ITTA"), CBT hereby adopts and incorporates by reference the reply comments being filed today by the USTA, the National Telephone Cooperative Association, the National Rural Telecom Association, the Organization for the Protection and Advancement of Small Telephone Companies, the ITTA, and the National Exchange Carrier Association (hereinafter collectively referred to as the "Joint Petitioners").

II. Comments on the LFAM

It was obvious from the October 5, 1998 Notice of Proposed Rulemaking ("NPRM") in this proceeding that the Commission sought comment on whether the LFAM should change, not on whether it should be eliminated.[1] Indeed, in the NPRM,

[1] In the Matter of Prescribing the Authorized Unitary Rate of Return for Interstate Services of Local Exchange Carriers, CC Docket No. 98-166, Notice Initiating a Prescription Proceeding and Notice of Proposed Rulemaking, released October 5, 1998, at para. 55.

the Commission tentatively concluded that the LFAM should be set at 100 basis points below the prescribed rate of return established in this proceeding.[2] Most parties filing comments in this proceeding recognized the Commission's intent and provided responsive comments. For example, GTE and CBT urged the Commission to break the linkage between price cap regulation and rate of return regulation.[3] In addition, CBT, GTE and SBC strongly recommended that the Commission, at a minimum, establish the current 10.25% LFAM as an interim mechanism until the Commission can initiate a proceeding to develop a new LFAM that better reflects the new competitive and regulatory environment.[4]

AT&T and MCI, on the other hand, raised issues in their comments that have either already been resolved by the Commission, or are still pending in other proceedings. Both AT&T and MCI inappropriately continue to debate the elimination of the LFAM and/or the reinstatement of sharing.[5] For the reasons discussed below, the Commission should disregard these comments.

First of all, the elimination of the LFAM and/or the reinstatement of sharing are both clearly beyond the scope of this proceeding. These issues were fully addressed in the Commission's Fourth Report and Order, CC Docket 94-1, Price Cap Performance Review for Local Exchange Carriers and Second Report and Order, CC Docket 96-262, Access Charge Reform (hereinafter referred to as the "Fourth Report and Order"). At paragraph 11 of the Fourth Report and Order, the Commission clearly articulated that the LFAM is necessary to guard against the new X-factor causing LECs to charge

[2] Id.
[3] CBT comments at p. 3; GTE comments at p. 7.
[4] CBT comments at p. 4; GTE comments at pp. 7-8; and SBC comments at pp. 6-7.
[5] AT&T comments at pp. 2-7; MCI comments at pp. 4-5.

unreasonably low rates. The Fourth Report and Order also reinforced the Commission's conclusion that a price cap regulatory plan without sharing would best serve the public interest.[6]

In spite of these prior Commission conclusions, AT&T continues to argue that the retention of the LFAM is not in the best interest of consumers. AT&T's position in this regard could not be further from the truth. As the Joint Petitioners' witness, Dr. Avera, points out on page 26 of his testimony:

> "An announcement by the Commission of an inadequate prescribed rate of return would ultimately hit customers with a "double whammy." Their ILECs would be less able to fund investment to keep abreast of technology, while potential competitive access providers would find it more difficult to finance their entry into local markets."

The impact to price cap LECs would be further exacerbated to the extent the LFAM is fixed at a level substantially below the prescribed rate of return established in this proceeding.

This further highlights the need to break the linkages between price cap regulation and rate of return regulation by establishing an interim LFAM at 10.25% and initiating a proceeding to establish a new LFAM that better reflects today's rapidly changing competitive environment. While CBT generally agrees that the Commission's new price cap structure is better suited for the competitive environment envisioned by the 1996 Act, it must be recognized that CBT does not endorse the 6.5% X-factor as appropriate for mid-size price cap LECs serving fewer than 2% of the nation's access lines. Indeed, on July 11, 1997, CBT filed a Petition for Reconsideration in CC Docket No. 94-1 seeking a more appropriate X-factor for mid-size companies. In addition, on May 14, 1998, the ITTA filed an ex parte letter on behalf of CBT and other mid-size companies suggesting

[6] Fourth Report and Order at para. 149.

the establishment of a 5% X-factor for LECs serving fewer than 2% of the nation's access lines. The ITTA letter was supported by a study entitled: "One Size Does Not Fit All: Further Evidence Against the Adequacy of a Single X-Factor."

III. Conclusion

CBT urges the Commission to disregard the comments of AT&T and MCI on the LFAM. As suggested in CBT's initial comments, the Commission should adopt an interim LFAM of 10.25% and initiate a proceeding to establish a new LFAM that better reflects today's rapidly evolving competitive environment.

Respectfully submitted,

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